

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer Peter Hartley
Address 6468A Opeakaa Road, Kapaa, Hawaii 96746

Project Name (\*) HARTLEY ESTATE
Address: Being of Lot 20-M-5-A, Being Also Portion of Grant 13522
Wailua, Kawaihau, Kauai, Hawaii
Registration No. 5577
Effective date: March 29, 2005
Expiration date: April 29, 2006

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports: Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

PRELIMINARY (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.

X FINAL (white) The developer has legally created a condominium and has filed complete information with the Commission.
[X] No prior reports have been issued.
[ ] This report supersedes all prior public reports.
[ ] This report must be read together with

SUPPLEMENTARY (pink) This report updates information contained in the:
[ ] Preliminary Public Report dated:
[ ] Final Public Report dated:
[ ] Supplementary Public Report dated:

And [ ] Supersedes all prior public reports.
[ ] Must be read together with
[ ] This report reactivates the public report(s) which expired on

(\*) Exactly as named in the Declaration

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report

Not Required - Disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

No prior reports have been issued by the developer.

Changes made are as follows:

SPECIAL ATTENTION

This is a CONDOMINIUM PROJECT, not a subdivision. There are County restrictions on the number of residential dwelling units, or other structures, which may be built on the property. Therefore, unless the Purchaser is buying an existing residential dwelling, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. THERE IS ALSO NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. The Purchaser should consult with the appropriate County agencies to determine whether the Purchaser may build a residential dwelling unit, or any other type of structure on the property.

1. There are presently TWO RESIDENTIAL STRUCTURES ON THIS PROPERTY, each of which may be defined as an "apartment", under the condominium property act.
2. This public report does not constitute an approval of the project by the Real Estate Commission or any other government agency, nor does it warrant that all applicable County codes, ordinances, and subdivision requirements have necessarily been complied with.
3. The land area beneath and immediately appurtenant to each unit is designated a LIMITED COMMON ELEMENT and is not a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

SPECIAL ATTENTION (CONCLUDED):

4. Facilities and improvements normally associated with County-approved subdivision, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owners and emergency traffic, drainage facilities, etc. may not be provided, and services such as County street maintenance and trash collection may not be available for interior roads and driveways.

THIS PUBLIC REPORT WAS DONE BY THE DEVELOPER AND NOT AN ATTORNEY. THE PROSPECTIVE PURCHSER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENT REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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EXHIBIT A: ESTIMATE OF INITIAL MAINTENANCE FEES AND DISBURSEMENTS

EXHIBIT B: ENCUMBRANCES AGAINST TITLE

EXHIBIT C: COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

EXHIBIT D: SUMMARY OF SALES CONTRACT

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EXHIBIT F: METES AND BOUNDS DESCRIPTION OF EACH LIMITED COMMON ELEMENT

## General Information On Condominiums

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

"Common elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

## Operation of the Condominium Project

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer:

Peter Hartley  
Name\*  
6468A Opeakaa Road  
Business Address  
Kapaa, Hawaii 96746

Phone: (808) 823-0612  
(Business)

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker\*:

Century 21 All Islands -Princeville  
Name  
5-4280 Kuhio Hwy. #B5  
Business Address  
Princeville, HI. 96722

Phone: (808) 826-7211  
(Business)

Escrow

Title Guaranty Escrow Services, Inc.  
Name  
235 Queen Street  
Business Address  
Honolulu, Hawaii 96813

Phone: (808) 245-3381  
(Business)

General Contractor\*:

L.N. Smith, Inc.  
Name  
P.O. Box 1680  
Business Address  
Hanalei, Hawaii 96714

Phone: (808) 828-6722  
(Business)

Condominium Managing Agent\*:

Self Managed by the Association of  
Name Apartment Owners  
Business Address  
\_\_\_\_\_

Phone: \_\_\_\_\_  
(Business)

Attorney for Developer:

None. This report prepared by the  
Name developer, pro se  
Business Address  
\_\_\_\_\_

Phone: (808) 823-0612  
(Business)

For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances: Document No. 2004-247068  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

Proposed  
 Recorded - Bureau of Conveyances Condo Map No. 3899  
 Filed - Land Court Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances: Document No. 2004-247069  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

D. House Rules. The Board of Directors may adopt House Rules to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirements for keeping pets. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial House Rules are usually adopted by the developer.

The House Rules for this condominium are:

Proposed       Adopted       Developer does not plan to adopt House Rules

E. Changes to Condominium Documents Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. Apartment Owners: Minimum percentage of common interest which must vote for or give written consent to changes:

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>N/A</u>

\* The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. Developer:

No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

The Developer may amend the Declaration (and, when applicable, any exhibits to the Declaration and the Condominium Map) (a) as may be provided in the Declaration and (b) to file the "as built" statement required by Section 514A-12 of the Act (1) so long as such verified statement is a verified statement of a registered architect or professional engineer certifying that the final plans theretofore filed or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment numbers and the dimensions of the apartments as built, or (ii) so long as the plans filed therewith involve only minor changes to the layout, location or dimensions on the apartments, as built, or any change in any apartment number.



Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

**B. Underlying Land:**

Address: Being of Lot 20-M-5-A, Being Also Tax Map Key (TMK): (4) 4-2-6:12

Portion of Grant 13522, Wailua,  
Kawaihau, Kauai, Hawaii

Address  TMK is expected to change because \_\_\_\_\_

Land Area: 15,835  square feet  acre(s) Zoning: R-4/0

Fee Owner: Peter Hartley  
 Name \_\_\_\_\_  
6468A Opeakaa Road  
 Address \_\_\_\_\_  
Kapaa, Hawaii 96746

Lessor: N/A  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_

C. **Buildings and Other Improvements:**

1.  New Building(s)  
 Conversion of Existing Building(s)  
 Both New Building(s) and Conversion

2. Number of Buildings: 3 Floors Per Building: 1

Exhibit \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:

Concrete       Hollow Tile       Wood

Other \_\_\_\_\_

4. Uses Permitted by Zoning:

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>2</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?

Yes       No

5. Special Use Restrictions:

The Declaration and Bylaws may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

[ ] Pets: \_\_\_\_\_

[ ] Number of Occupants: \_\_\_\_\_

[x] Other: Types and numbers of animals limited by Bylaws: Article V, Section 3

[ ] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0

Stairways: 0

Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf) (Identify)
A	1	3/2	1081	24 deck
B	1	2/1	702	82 patio, 2 decks 19 each shed 491

Total Number of Apartments: 2

\* Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.

Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

Boundaries of Each Apartment:

Perimeter wall to perimeter wall, floor to exterior of roof.

Permitted Alterations to Apartments:

Any alterations permitted by law.

Apartments Designated for Owner-Occupants Only:

Fifty percent (50%) of residential apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has not elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls:	<u>4 *</u>			
	<u>Regular</u>	<u>Compact</u>	<u>Tandem</u>	
	<u>Covered</u>	<u>Covered</u>	<u>Open</u>	<u>TOTAL</u>
Assigned (for each unit)	<u>2</u>	_____	_____	<u>4</u>
Guest	_____	_____	_____	_____
Unassigned	_____	_____	_____	_____
Extra for Purchase	_____	_____	_____	_____
Other: _____	_____	_____	_____	_____
Total Covered & Open:	<u>4</u>	<u>0</u>	<u>0</u>	<u>4</u>

\* Stalls not yet created nor designated but  
 Each apartment will have the exclusive use of at least 2 parking stall(s) eventually.  
 Buyers are encouraged to find out which stall(s) will be available for their use.

Commercial parking garage permitted in condominium project.

Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool

Storage Area

Recreation Area

Laundry Area

Tennis Court

Trash Chute/Enclosure(s)

Other: \_\_\_\_\_

9. Compliance With Building Code and Municipal Regulations; Cost to Cure Violations

There are no violations.

Violations will not be cured.

Violations and cost to cure are listed below:  Violations will be cured by \_\_\_\_\_  
 (Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations (For conversions of residential apartments in existence for at least five years):

N/A

11. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses:	<u>X</u>	<u>          </u>	<u>          </u>
Structures	<u>X</u>	<u>          </u>	<u>          </u>
Lot	<u>X</u>	<u>          </u>	<u>          </u>

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal; buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. Common Elements, Limited Common Elements, Common Interest:

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit     C    .

as follows:

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

There are no limited common elements in this project.

The limited common elements and the apartments which use them, as described in the Declaration, are:

described in Exhibit C \*

as follows:

\* Note: Land areas referenced herein are not legally subdivided lots.

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit \_\_\_\_\_

as follows:

Unit 1: 50% appurtenant common interest

Unit 2: 50% appurtenant common interest

**Encumbrances Against Title:** An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit B describes the encumbrances against the title contained in the title report dated January 10, 2005 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

[ ] There are no blanket liens affecting title to the individual apartments.

[ x ] There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Mortgage	The Underlying mortgage is superior to and takes precedence over the sale contract. If the Developer defaults buyer shall lose his option to consummate his purchase of the property and Buyer's money shall be refunded less cancellation fees.

Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:

None.

2. Appliances:

None.

G. Status of Construction and Date of Completion or Estimated Date of Completion:

Unit A was completed on July 5, 2004.

Unit B was completed on July 5, 2004.

H. Project Phases:

The developer [ ] has [  ] has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

IV. CONDOMINIUM MANAGEMENT

A. **Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

**Initial Condominium Managing Agent:** When the developer or the developer's affiliate is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report, is:

- not affiliated with the Developer  the Developer or Developer's affiliate
- self-managed by the Association of Apartment Owners  Other: \_\_\_\_\_

B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit A\* contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

Note\* Developer has not conducted a reserve study in accordance with 514A-83.6, HRS and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107,

C. **Utility Charges for Apartments:** Hawaii Administrative Rules, as amended.

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

- None  Electricity ( \_\_\_ Common Elements only \_\_\_ Common Elements & Apartments)
- Gas ( \_\_\_ Common Elements only \_\_\_ Common Elements & Apartments)
- Water  Sewer  Television Cable
- Other \_\_\_\_\_

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

Sales documents on file with the Real Estate Commission include but are not limited to:

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit D contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated December 31, 2004  
Exhibit E contains a summary of the pertinent provisions of the escrow agreement.
- Other \_\_\_\_\_

B. Buyer's Right to Cancel Sales Contract:

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The Developer delivers to the buyer a copy of:
  - 1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; **AND**
  - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); **AND**
- C) One of the following has occurred:
  - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
  - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**
- B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
  - B) Declaration of Condominium Property Regime, as amended.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - D) House Rules, if any.
  - E) Condominium Map, as amended.
  - F) Escrow Agreement.
  - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
  - H) Other \_\_\_\_\_

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)  
Website to access unofficial copy of laws: [www.hawaii.gov/dcca/hrs](http://www.hawaii.gov/dcca/hrs)  
Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

This Public Report is a part of Registration No. 5577 filed with the Real Estate Commission on January 25, 2005.

Reproduction of Report. When reproduced, this report must be on:

YELLOW paper stock                       WHITE paper stock                       PINK paper stock

C. Additional Information Not Covered Above

1. The project qualifies for two residences on the basis on an Additional Dwelling Unit permit under the "Ohana" ordinance of the County of Kauai. The project and both units thereon are subject to said ordinance as the same may be amended.
2. Since the project is only allowed one wastewater system and there is a limitation of a total of 5 bedrooms per wastewater system, Unit A shall be limited to 3 bedrooms and Unit B shall be limited to 2 bedrooms. The wastewater system is located with seepage pits on both units and each unit is granted an easement for maintenance, repair and/or hook-up that may be necessary.
3. Maintenance fees. All costs of every kind pertaining to each apartment and its respective limited common element, including but not limited to, cost of landscaping, maintenance, repair, replacement and improvement shall be borne entirely by the respective owners. It is anticipated that the wastewater system will need to be inspected every 2 years for an estimated fee of \$150.00 and if pumping is needed the fee is estimated at \$400 to \$500. This fee shall be shared equally and collected as any expenses are incurred. Section 514A-86, Hawaii Revised Statutes, requires the Association of Apartment Owners purchase fire insurance to cover the improvements of the Project, and that premiums be common expenses. Developer anticipates that the Association will elect to permit individual apartment owners to obtain and maintain separate policies of fire insurance and name the Association as an additional insured. In such case, fire insurance premiums will be the responsibility of individual apartment owners and not common expenses. Developer estimates such annual premium expense to be about \$600.00 per year for Unit A and \$600.00 per year for Unit B. This estimate was prepared in accordance with generally accepted accounting principles.

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

Peter Hartley

Printed Name of Developer

By:  1-22-05  
 Duly Authorized Signatory\* Date

Peter Hartley - Developer

Printed Name & Title of Person Signing Above

tribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

*\*Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.*

EXHIBIT   A  

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>
Unit 1	\$50.00 x 12 = \$600.00
Unit 2	\$50.00 x 12 = \$600.00

*The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency*

Estimate of Maintenance Fee Disbursements:

Monthly Fee x 12 months = Yearly Total

Utilities and Services

- Air Conditioning
- Electricity
  - common elements only
  - common elements and apartments
- Elevator
- Gas
  - common elements only
  - common elements and apartments
- Refuse Collection
- Telephone
- Water and Sewer

Maintenance, Repairs and Supplies

- Building
- Grounds

Management

- Management Fee
- Payroll and Payroll Taxes
- Office Expenses

Insurance

\$100.00 x 12 = \$1200.00

Reserves(\*)

Taxes and Government Assessments

Audit Fees

Other

TOTAL

\$1200.00

I, Peter Hartley, as agent for/and/or employed by \_\_\_\_\_,

the condominium managing agent/developer for the

Hartley Estate condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

  
\_\_\_\_\_  
Signature

1-22-05  
\_\_\_\_\_  
Date

) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a serve study in accordance with §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

ir nt to §514A-83.6, HRS, a new association created after January 1, 1993, need not collect estimated on nment reserves until the fisca' year which begins after the association's first annual meeting.

**EXHIBIT "B"**  
Encumbrances Against Title

1. For real property taxes that may be due and owing, reference is made to County of Kauai Department of Finance for more information.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Free Flowage of the Opeakaa Stream.
4. Location of the boundary of Opaekaa Stream and the effect, if any, upon the area of the land described herein, and the free flowage thereof.
5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT:        DEED

DATED            :        November 21, 1958

RECORDED        :        Liber 3540 Page 236

6. SETBACK (8 feet wide)

PURPOSE        :        roadwidening

ALONG           :        Opaekaa Road

SHOWN          :        Subdivision map dated Auguste 26, 2002, prepared by Esaki  
Surveying & Mapping, Inc.

7. MORTGAGE

LOAN/ACCOUNT NO. 0020218108

MORTGAGOR:        PETER HARTLEY, unmarried

MORTGAGEE:        AMERICAN SAVINGS BANK, F.S.B., a federal savings  
bank

DATED           :        September 25, 2003

RECORDED       :        Document No. 2003-212710

AMOUNT         :        \$282,000.00

8. MORTGAGE AND FINANCING STATEMENT

LOAN/ACCOUNT NO. 74003-03632

MORTGAGOR: PETER HARTLEY, single

MORTGAGEE: AMERICAN SAVINGS BANK, F.S.B., a federal savings bank

DATED: October 19, 2004

RECORDED: Document No. 2004-216459

AMOUNT: \$115,000.00

9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: DECLARATION OF CONDOMINIUM PROPERTY REGIME  
FOR "HARTLEY ESTATE" CONDOMINIUM PROJECT

DATED: Nov. 16, 2004

RECORDED: Document No. 2004-247068

MAP: 3899 and any amendments thereto

10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: BY-LAWS OF THE ASSOCIATION OF APARTMENT  
OWNERS

DATED: Nov. 16, 2004

RECORDED: Document No. 2004-247069

Exhibit 'C'

COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

1. Common Elements. The common elements of the Project consist only of the following:

(i) All the land in fee simple, subject to the division of the same as limited common elements pursuant to Paragraph 6 herein;

(ii) The limited common elements hereinafter described, subject to the provisions set forth in Paragraph 6 of the Declaration.

(iii) All pipes, wires, conduits, or other Utility or service lines, drainage ditches or appurtenant drainage structures retaining walls (if any) and yard fences, which are located outside the apartments and which are utilized for or serve more than one apartment.

(iv) The project is serviced by two water meters. Each unit has its own water meter. The water meters are both located on Unit B and Unit B shall grant a perpetual easement to Unit A for any maintenance, repair and/or hook-up that may be necessary.

(v) There is a common element of approximately 1,044 square feet for driveway access for both units as shown on the condominium map. Both apartments agree that there shall be no parking in this area and neither party shall impede the flow of traffic in this common driveway area.

(vi) The project shall be serviced by one wastewater system which is already installed with seepage pits on both units. The maintenance of which shall include an inspection of the system every 2 years by a licensed plumber, which will be shared equally by both units. Any repairs to the wastewater system will be shared by the ratio of number of people using the units. For example, if Unit A has 4 people using the unit and Unit B as 2 people using the unit then Unit A shall pay 4/6 the cost of any repairs and/or maintenance required other than the inspections every 2 years which shall be shared equally.

2. Limited Common Elements. The limited common elements of the Project consist only of the following:

(i) That portion of the Land which is designated as Limited Common Element A, being 12,028 square feet in area, on the Condominium Map, is reserved for the exclusive use of Apartment A for the support of the building and other improvements comprising Apartment A, or attendant thereto, and for parking, yard and residential purposes.

(ii) That portion of the Land which is designated as Limited Common Element B, being 2,763 square feet in area, on the Condominium Map, is reserved for the exclusive use of Apartment B for the support of the building and other improvements comprising Apartment B, or attendant thereto, and for parking, yard and residential purposes.

Each apartment owner, at his expense, shall maintain the limited common elements appurtenant to his apartment in good order and in a neat and attractive condition. All limited common elements costs and expenses shall be borne by the apartment owners in the following equitable manner: All limited common elements costs and expenses, including, but not limited to, maintenance, repair, replacement, additions and improvements of or to the limited common elements, shall be borne by and charged to the owner of the apartment to which the limited common element is appurtenant.

\*\*\*\*\*  
NOTICE: This is not a subdivision. The Limited Common Elements that are reserved for the exclusive use of individual units are not subdivided parcels. As such they do not fall within the ordinances of the County of Kauai as the same pertain to subdivision nor do they derive any benefits therefrom.  
\*\*\*\*\*

EXHIBIT 'D'

SUMMARY OF SALES CONTRACT:

The Seller intends to use a current Hawaii Association of Realtors' form of Deposit Receipt, Offer and Acceptance ("DROA") as the sales contract for the sale of apartments in the Project. The sales contract contains the purchase price, description and location of the apartment and other terms and conditions under which a Buyer will agree to buy an apartment.

Among other things, the sale contract and addendum:

1. Provides a section for financing to be completed and agreed to by the parties which will set forth how Buyer will pay the purchase price.

2. Identifies the escrow agent and states that Buyer's deposit will be held in escrow until the sale contract is closed or cancelled.

3. Requires that Buyer must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

4. Provides the following remedies, in the event of default under the sale contract:

By Buyer:

- a. Seller may bring an action against Buyer for breach of contract;
- b. Seller may retain Buyer's initial deposit;
- c. Buyer shall be responsible for expenses incurred.

By Seller:

- a. Buyer may bring an action against Seller for breach of contract;
- b. Buyer may bring an action compelling Seller to perform under contract;
- c. Seller shall be responsible for expenses incurred.

Any awards to the prevailing party in any action are subordinate to escrow's expenses.

5. Allocation of payment of closing costs.

## EXHIBIT "E"

### SUMMARY OF ESCROW AGREEMENT:

An escrow Agreement allows the Condominium Buyers' money to be held by a neutral party, the Escrow Agent, until the Seller can deliver good and marketable title to the Condominium. The Escrow Agreement for this project provides for, among other things:

1. That TITLE GUARANTY ESCROW SERVICES, INC. is the Escrow Agent.
2. That, upon execution of a Sales Contract, the Developer shall deliver all money received over to the Escrow Agent.
3. That there shall be no disbursement of the purchaser's deposit until: [a] Escrow receives a copy of "Receipt for Public Report(s) and Notice of Right to Cancel", in the form specified by Section 514A-62 of the Condominium Act for the Final and any Supplementary Public Reports, executed by the purchaser; [b] Escrow has received a certification that the requirements of Section 514A-39 and 514A-63 have been met and [c] until the purchaser's apartment deed is filed in the Bureau of Conveyances of the State of Hawaii.
4. That the Buyer shall receive all public documents relating to the project.
5. That a Buyer's money shall be returned to him under the following conditions: [a] Escrow receives a written request from the Developer and purchaser for the return of purchaser's funds or [b] Developer and purchaser notify Escrow of a rescission or [c] Developer and purchaser notify Escrow that the conditions for a refund under Sections 514A-62 and 514A-63 of the Condominium Act have been met.
6. That, upon the Seller providing good title to the Condominium, the Buyer's money shall be turned over to the Seller.
7. That the Escrow Agent will record with the State of Hawaii all documents requiring such.
8. That, if the Buyer is unable to perform and has money on deposit in escrow, these monies will be turned over to the Seller.
9. That, if the Buyer is unable to perform in any matter and the Seller terminates the sales contract in accordance with the terms thereof, escrow shall treat all funds as funds of the Seller. Escrow shall thereupon be released from any further duties or liability with respect to such funds and such Buyer.

EXHIBIT "F"

**HARTLEY ESTATE**  
Limited Common Element for Unit A

Being Portion of Lot 20-M-5-A  
Also Being Portion of Grant 13522

LAND SITUATED AT WAILUA, KAWAIHAU, KAUA'I, HAWAII

Beginning at the south corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" 1,309.67 feet South and 7,989.29 feet West, thence running by azimuths measured clockwise from true south:

- |    |          |        |  |
|----|----------|--------|--|
| 1. | 112° 50' | 133.84 | feet along of Lot 20-M-4-A and Lot 20-M-4-B;   |
| 2. | 202° 50' | 96.57  | feet along of Lot 20-M-4-C;  |
| 3. | 259° 47' | 57.22  | feet along the middle of Opaekaa Stream;   |
| 4. | 347° 03' | 77.39  | feet along of Lot 20-M-5-B;  |
| 5. | 292° 50' | 31.41  | feet along of Lot 20-M-5-B;  |
| 6. | 14° 46'  | 65.65  | feet along of Lot 20-M-5-A (Limited Common Element of Unit B), to the point of beginning and containing an area of 12,028 square feet. |



Lihue, Hawaii  
October 2004

DESCRIPTION PREPARED BY:  
ESAKI SURVEYING & MAPPING, INC.

*Wayne T. Wada*

Wayne T. Wada  
Licensed Professional Land Surveyor  
Certificate Number 4596

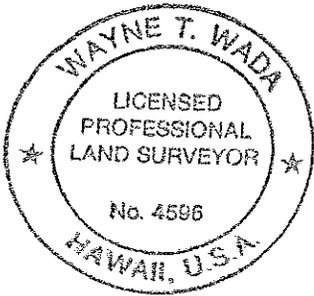
**HARTLEY ESTATE**  
Limited Common Element for Unit B

Being Portion of Lot 20-M-5-A  
Also Being Portion of Grant 13522

LAND SITUATED AT WAILUA, KAWAIHAU, KAUA'I, HAWAII

Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" 1,268.92 feet south and 7,918.57 feet West, thence running by azimuths measured clockwise from true south:

- |    |          |       |  |
|----|----------|-------|--|
| 1. | 14° 46'  | 45.65 | feet along the North side of Opaekaa Road;   |
| 2. | 104° 46' | 40.32 | feet along the remainder of Lot 20-M-5-A (Common Element);   |
| 3. | 142° 53' | 22.47 | feet along the remainder of Lot 20-M-5-A (Common Element);   |
| 4. | 194° 46' | 40.00 | feet along the remainder of Lot 20-M-5-A (Limited Common Element for Unit A);                      |
| 4. | 292° 50' | 58.58 | feet along of Lot 20-M-5-B, to the point of beginning and containing an area of 2,763 square feet. |



DESCRIPTION PREPARED BY:  
ESAKI SURVEYING & MAPPING, INC.

*Wayne T. Wada*  
\_\_\_\_\_  
Wayne T. Wada  
Licensed Professional Land Surveyor  
Certificate Number 4596

Lihue, Hawaii  
October 2004

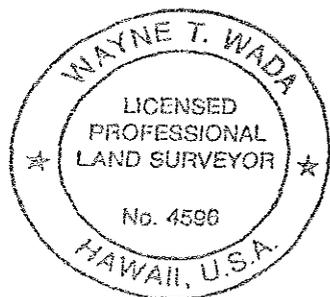
HARTLEY ESATE  
Common Element

Being Portion of Lot 20-M-5-A  
Also Being Portion of Grant 13522

LAND SITUATED AT WAILUA, KAWAIHAU, KAUA'I, HAWAII

Beginning at the northwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" 1,309.67 feet South and 7,989.29 feet West, thence running by azimuths measured clockwise from true south:

- |    |          |       |   |
|----|----------|-------|---|
| 1. | 194° 46' | 25.65 | feet along the remainder of Lot 20-M-5-A (Limited Common Element for Unit A);                   |
| 2. | 322° 53' | 22.47 | feet along the remainder of Lot 20-M-5-A (Limited Common Element for Unit B);                   |
| 3. | 284° 46' | 40.32 | feet along the remainder of Lot 20-M-5-A (Limited Common Element for Unit B);                   |
| 4. | 14° 46'  | 20.00 | feet along the North side of Opaekaa Road;  |
| 5. | 112° 50' | 58.58 | feet along Lot 20-M-4-A, to the point of beginning and containing an area of 1,044 square feet. |



Lihue, Hawaii  
October 2004

DESCRIPTION PREPARED BY:  
ESAKI SURVEYING & MAPPING, INC.

Wayne T. Wada  
Wayne T. Wada  
Licensed Professional Land Surveyor  
Certificate Number 4596